

## MINUTES

### Erie County Council

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Dr. Kyle Foust, Chairman  
Fiore Leone, Vice Chairman  
Carl Anderson, III  
Kathleen Fatica  
André R. Horton  
Carol Loll  
Scott R. Rastetter

## REGULAR MEETING MINUTES

**Tuesday, September 18, 2018**

### PLEDGE OF ALLEGIANCE

Chairman Foust called to order a Regular Meeting of the Erie County Council at 7:00 p.m. at the Erie County Council Chambers, 140 West 6th Street, Room 117, Erie, PA. Following the Pledge of Allegiance, Mrs. Loll read the following prayer:

### OPTIONAL PRAYER OR INVOCATION

"Let us pray. We are here tonight to govern the people who have entrusted us with their one vote for many. To vote for them as they feel government should be, which is truly for liberty and justice. We are assigned to a humble service which is the duty of us all. We are called to respect and support one another through truth and honesty. As we travel the road towards the future may we be attentive and not distracted. Let us not be a people of a divided heart. May our priorities be for the good, and our vision be focused on our duties. Give us strength and courage to do what is right. We ask this in the name of our Savior, Jesus Christ. Amen."

### ROLL CALL

Members Present: Mr. Anderson; Mrs. Fatica; Mr. Horton; Mr. Leone;  
Mrs. Loll; Mr. Rastetter; Chairman Foust.

Also Present: Douglas R. Smith, James Sparber, Tracey Fugagli

## HEARING OF THE PUBLIC

### **Randy Barnes**

Randy Barnes, Harborcreek Twp; wanted to talk about ECGRA sending County the reports. He stated that unless someone understands and looks at the reports, there is a chance that money gets lost. He discussed the fact that GEIDC sent reports and ended up bankrupt. He commented that after looking at ECGRA he thinks there needs to be changes. He started to look into the ECGRA money and how it was spent. There were checks over six months to Amanda Burlingham who is ECGRA's PR person in the amount of \$24,000. This is tax money spent on PR. Council has to decide what the tolerance is for misuse of tax funds.

Michael Keys; Mr. Keys discussed the MPO and \$5 fee that was to go towards roads and bridges in Erie Count. He asked that the McBride Viaduct be considered to use this money to fix it. He also spoke about the LERTA expansion and stated he is against the expansion to the Bayfront because it won't serve the school district or the city which are both having serious financial problems. Over ten years, the city could lose almost \$100 million. There is not a lot of property left in the city and it is not a good plan to have LERTA north of the Bayfront. He asked Council to think about the city, the city residents.

**County Executive and/or  
her Designee**

Gary Lee, Director of Administration, gave a Community College application overview. On 6/30/17, the Administration sent an application for consideration to state. On 12/19/17, a special committee provided feedback to committee requesting additional information and this information was prepared with Empower Erie and Administration. On 2/16/18, the Administration submitted a supplemental information report to the State Board of Education. They were told that if there were any questions or concerns, they would be in touch. The Administration has reached out to the State Board of Education and they stated it would not be on the agenda for September. The Department of Education reached out to Administration (Michael Potts) and shared that he would like a conference call with Mr. Lee to go over some of the keys are of the plan. This call occurred on 9/14/18 and he questioned the financial section. Mr. Potts feels that the County application is aggressive based on the rollout of lessons. Mr. Potts wanted an additional discussion with the financial team to go over the rollout of those programs. A teleconference will occur 9/19/18 to go over the programs in the plan and prioritize. Mr. Lee stated they were told it would be a 12-18 month review. The 12 month mark has passed so Mr. Lee is hoping it will be decided within the 18 months. Mr. Horton asked that the information be passed along to Council as it becomes available.

**Finance Committee –  
Mrs. Fatica**

Mrs. Fatica stated that the Finance Committee met on Thursday, September 13, 2018 and agreed to place Ordinances 121 through 124 and Resolution 49 on the agenda.

**Personnel Committee –  
Mr. Horton**

Mr. Horton stated that the Finance Committee met on September 13, 2018 and agreed to place the appointment of Rand Levis to the Erie County Hospital Authority on the agenda.

**Other**

Mrs. Fatica asked that colleagues, family and friends to get their flu shot.

Mr. Leone read the following reports:

“Maybe I am misunderstanding what ECGRA or some Council members are indicating. I have heard the Solicitor for ECGRA indicate that we can’t hold

back the funds for ECGRA's restricted funds. This was never the intent of this ordinance. We expect ECGRA to follow guidelines that are used in the Grants to Other Organizations, as far as their expenses are concerned.

The issue I am concerned with include:

1. Payment to the Pennsylvania Society Association. What benefits are derived from this?
2. The Ridge Group Payments on a monthly basis:
  - a. They indicate they are lobbying for them. Lobbying for what? ECGRA is a grant organization and funding comes from gaming revenues.
  - b. What benefits come from the Ridge Group? None.
3. Two checks were made out for reimbursement to Perry Wood for a doctoral degree. One check was made out for \$5,804.38 on March 8, 2017, for fall tuition reimbursement. A second check for \$5,427 was cut less than seven weeks later on April 4, 2017, for a total of \$11,331.38 of gaming revenue tax dollars.

The first check was for tuition reimbursement. In an effort to hide this, the second check was written for "Personal Development". This, I agree, was a plan to deceive the public including Council and some members of the ECGRA Board. Nowhere in the minutes of their meeting is this present. How did it happen?

4. Food for ECGRA for 2017, in my estimation, approximately \$38,000. They not only give grant checks but they give presents and food to these recipients. We were highly critical of GECAC that spent \$35,000 on food. Why aren't we critical of ECGRA?

This is what the ordinance is all about. There are other areas I will cover later after reviewing other minutes of their meetings. No one is saying we are going to stop their funding. As one member of this Council, I feel we need to be aware of their actions and I believe this ordinance that also applies to grants to other organizations needs to be passed.

The next issue is at the Council caucuses, two issues were ones that caught my attention. The first was Mr. Horton's comment about 1st readings becoming 2nd readings. I can understand when it is an emergency. However, I agree with him because by our always going for 2nd readings, it presents a few problems:

1. It doesn't give the citizenry any opportunity to review the issue or make any comments about it.
2. It makes this Administration and Council very complacent. The

Administration can ask for 2nd readings and usually gets it. We need to make sure of when they were aware of the situation and if they had time to present it earlier.

Again, I agree with Andre Horton that we should not, just for the sake of expediency, make 2nd readings.

During the caucus, I indicated that I attended a meeting about the first ordinance that was passed by Council where ECGRA was concerned. I heard our Chairman indicate that because he was the liaison to ECGRA he should have been informed. Meaning no disrespect to the Chairman or any other member of Council, let me make myself very clear, not the Chairman or any member of this Council can dictate what I can or cannot do. I am not elected by the Chairman or any member of this Council. I don't need anyone to say to me that I can or can't go to any meeting I want to.

I am elected by my constituents and not any other individual. They are my first concern. If they feel I am not doing my job they will vote me out. Again, I am not anyone's patsy. I will do what I think is right. I will not compromise my principles for anyone".

Mr. Horton spoke about LERTA. He is not against LERTA in certain instances when applied right to spur economic development. As it speaks to blighted areas, he feels that anything north of the Bayfront should not be given LERTA. He does not feel that if you fall under the guidelines of LERTA as it is written, they are excellent opportunities to use LERTA as its intended. There seems to be a lot of rising support for a city-wide LERTA and he feels that the citizens in his district will be immediately affected in a way much different than the citizens in the other six districts. His district is the epicenter of Erie Refocused, City of Erie Comprehensive Plan. There are wonderful things taking place.. It saddens him that poor people are being left behind. He hasn't heard from the city, county planning, state, or economic development organizations on how this will be taken care of for the affordable housing in those areas (Tullio Towers, Schmidt Towers, Methodist Towers, Richford Arms, Friendship Towers, etc.), the poor and disabled, underserved people - when those buildings are bought up where will these people go? What happens to affordable housing in this area? He highlighted once again that it's been 319 days since the 24 Wall Street USA Today article came out saying that Erie is the worst place in America for African Americans to live. 47% African Americans in the City of Erie are unemployed. Twice the national average. There is still dialogue about community college. He is sorry he missed last month's meeting and following the most recent City Council meeting he doesn't see anything on the agenda that will do anything for the poor people. They are renters and will not be able to afford to live in the areas they have been living in for decades. He is sending things to the Administration that will hopefully help. He feels reducing the age

of the Summer JAM Program to 15 will greatly help the youth and a start and variable to the problem. As it relates to liaisons, Mr. Horton stated that as liaison to EMTA, there is a crisis there. He is not opposed to anyone meeting at any time as long as it does not violate the Sunshine Act. He feels conversation and communication lends itself to better outcomes. He stated he hasn't had any conversations and the information he is getting on EMTA is from the Times and he does not feel that is right. He did send a letter to the Administration asking for a meeting to discuss this issue so Council isn't getting second hand information from the newspaper. There are appointments coming down for approval. He came to Council in 2014 and noted that there have been 281 appointments to boards/authorities since 2014.

**2014** **Total Appointments - 31 (All approved)**

**2015** **Total Appointments – 47 (All approved)**

**2016** **Total Appointments – 56**

2 Tabled (Ed DiMattio appointments)

1 Not Brought to Agenda (CE appointment of

Kathy Wyrosdick to the Redevelopment Authority; no move because she was County employee at the time.)

**2017** **Total Appointments – 38**

2 Brought back from 2017 (Ed DiMattio appointments – both were approved.)

3 Tabled (Jay Breneman appointments)

1 Failed (Jay Breneman appointment)

**2018** **Total Appointments as of 9/13/18 – 56**

1 Failed (Andre Horton appointment to the Erie County Planning Commission – Lisa Austin)

1 No Action Taken (Maria Goellner appointment to HRC was pulled at meeting).

The one that failed in 2018 was his appointment to the Erie County Planning Commission. They have submitted their bylaws which are a direct contradiction of the Home Rule Charter and the bylaws chose not to operate within confines of the Home Rule Charter. Home Rule Charter states that appointments are chosen from each district and a Council member can choose someone from their locale, and he is not happy that anyone goes outside of their district to make an appointment and feels it is a travesty. Each member represents nearly 40,000 people in their district and shame on them if they can find an appointee. This is not what the Home Rule Charter intended but it is in fact what is taking place. Under the ECPC bylaws, he is required to make his appointment from a list supplied by the ECATO and ECAB. Council voted not to operate on the Home Rule Charter in this instance. He requested the list and received one name for his appointment choice. He wouldn't know this person if they walked by

him, and that would be his appointment. Mr. Horton seems to be the only one that has an appointment that did not get approved. He made comments on cliques and asked Council to be mindful of the Sunshine Act and it appeared there is a block of votes and things were being done differently and he voiced that feeling. The rebuttal is that he is "immature". So a 59 year old grandfather of eight, father of eight, veteran, former trooper, former head of the NAACP, community leader, first African American voted to any elected County position in the 200+ years of the county is immature. He is being called a "boy", which is either ignorance, or insensitivity, or racially coded language and this is totally unacceptable and then to be referred as part of a "good ole boy" network, which he has never been referred to as this. He put his voting record up and one can see it but to suggest he is impetuous in any manner because he raised issues because of equity or fairness is wrong. He never called anyone names and others have resorted to that which is truly immature. He stated that the Three Year Plan does not show anything to help the poor and address the plight of poor people. He feels that 10 year tax breaks should not be given when there are so many societal ills. He discussed the RACP monies and doesn't see that these funds should be used in conjunction with LERTA on prime real estate property. It's akin to the Commonwealth having the largest deposit of Marcellus Shale in the world and it's not being taxed, but we have kids in the city that can't have a track meet and can't pass each other in the hallway because it's overcrowded. He feels it's immoral that we would give away tax dollars on prized property without bringing anything to the table for poor people. He reiterated that out of 228 appointments over four years, he is the only one who had a failed appointment. He will submit another appointment and will choose someone within his district, though that practice seems to be changing also not in accordance with the Home Rule Charter. He will abide by the opinion of our solicitor and he is fully within his rights to select from within his district his appointment to the Erie County Planning Commission and he will be doing so.

## **OLD BUSINESS**

None.

## **NEW BUSINESS**

Mr. Leone moved to amend agenda, Ord. 121-123 to 2nd, and add the appointment of Ron Susmarski to the Human Relations Commission Advisory Board to the agenda. This was seconded by Mr. Anderson and carried in a unanimous roll call vote.

### **Ord. 121, 2018 - GF SA of \$12,000 Donation from the Friends of the Library**

Mr. Smith gave a Second Reading of Ordinance Number 121, 2018, "Forty-Fourth 2018 Library Fund Budget Supplemental Appropriation of \$12,000 Donation from the Friends of the Library". This was moved by Mr. Leone, seconded by Mrs. Fatica and carried in a 7 - 0 vote.

- Ord. 122, 2018 – GF SA of \$4,261 for PCOMP Safety Improvement Program Grant** Mr. Smith gave a Second Reading of Ordinance Number 122, 2018, "Forty-Fifth 2018 General Fund Budget Supplemental Appropriation of \$4,261 for PCOMP Safety Improvement Program Grant". This was moved by Mr. Anderson, seconded by Mr. Leone and carried in a 7 - 0 vote.
- Ord. 123, 2018 – GF SA of \$96,992 for Additional Temporary Staff, Overtime, and Travel Expenses for Sheriff Department** Mr. Smith gave a Second Reading of Ordinance Number 123, 2018, "Forty-Sixth 2018 General Fund Budget Supplemental Appropriation of \$96,992 for Additional Temporary Staff, Overtime, and Travel Expenses for Sheriff Department".
- Mr. Leone commented that this is money that comes from the State, approximately \$1.5 million. He stated the County would not get all of that , but it certainly is another mandated service the State is mandating where they are requiring the County to pay for.
- This was moved by Mr. Anderson, seconded by Mrs. Fatica and carried in a 7 - 0 vote.
- Ord. 124, 2018 - Amending Ordinance Number 94, 2018, 'Creation of Policy for Disposition of Grants to Other Organizations Funding from Gaming or the General Fund** Mr. Smith gave a First Reading of Ordinance Number 124, 2018, "Amending Ordinance Number 94, 2018, 'Creation of Policy for Disposition of Grants to Other Organizations Funding from Gaming or the General Fund'".
- Resolution Number 49, 2018 - Proclaiming September 25, 2018 Voter Registration Day in Erie County, Pennsylvania** Mr. Smith gave a Reading of Resolution Number 49, 2018 "Proclaiming September 25, 2018 Voter Registration Day in Erie County, Pennsylvania".
- This was moved by Mr. Anderson and seconded by Mr. Leone.
- Mr. Anderson stated that a proclamation will be done naming the week as Voter Registration Week. He thanked Emmanuel Fike who worked very hard in bringing this to his attention and helping to make sure that this week and day were recognized.
- Mr. Horton thanked Emmanuel Fike as well and thanked Mr. Anderson for acknowledging him. EJ epitomizes what it means to be a public servant and should be acknowledged for it. Mr. Horton is glad that Council is celebrating it and in the proclamation it should encourage those to exercise their rights. These are perilous times and as Chairman of Election Board, with everything from seeking ways to provide paper ballot and safeguard the election to looking for more ways to include the electorate and make it easier for people who are

eligible to vote to be able to vote, this is an important step in democracy and many things are wrong but there are many done right. He feels it comes down to all politics being local. This is the proverbial election of a lifetime. He is pleased to offer up the resolution to honor Voter Registration Day.

Resolution Number 49, 2018, then carried in a unanimous roll call vote.

**Possible appointment of  
Rand Levis to the Erie  
County Hospital Authority**

Mrs. Fatica moved to approve the appointment of Rand Levis to the Hospital Authority. This was seconded by Mr. Leone.

Mr. Horton noted that it is not listed on the agenda whose appointment this is and he wanted to know and do they in fact live in the district they are being appointed to. Mr. Horton stated this will be his narrative moving forward in regards to appointments to boards and authorities. It was shocking to see 228 appointments and he having the only appointment that failed. He will be asking this question going forward.

**Possible appointment of  
Ronald Susmarski, Esq. to  
HRC Adv. Bd.**

Mr. Smith stated that this appointment belongs to the County Executive. Mr. Leone commented that he believes that appointments being made in particular areas are weak appointments. He doesn't feel that the ordinary citizen is being represented and unfortunately, Council has no say on who is appointed to the Hospital Authority. He does feel they should be a cross section of community and he doesn't see that happening from the County Executive.

Mr. Horton does feel that way as well and that's why he's made some comments in the past; appt. process is really designed for people who live in your district and hold to that requirement. There is not a lot of diversity in the appointments and once the dust settles it doesn't look like unprecedented cooperation but collusion.

Mr. Levis' appointment then passed in a unanimous roll call vote.

Mr. Rastetter moved to approve the appointment of Ronald Susmarski to the Erie County Human Relations Commission Advisory Board. This was seconded by Mrs. Fatica.

Mr. Horton wanted to know where he lives and whose appointment he is.

Mrs. Fatica stated that she was without an appointment to the Human Relations Commission for almost a year. During that time she was looking for a replacement. She then talked to Attorney Susmarski, who would like to serve with Human Relations but felt that he didn't have the time for the Commission but offered to work for the Board. Mr. Rastetter's appointment to the Advisory Board wanted, and has the time, to work on the Commission. With Mr. Rastetter's approval, she took his appointment from the Advisory Board and



placed her on the Commission. With the advice of the Solicitor, it came to her attention that the HRC and Advisory Board appointments do not have to choose within their district.

Mr. Horton stated that he cannot vote with a clean conscious to violate the Home Rule Charter and moving forward he will be voting no.

Mrs. Fatica stated it does not violate the Home Rule Charter.

Mr. Anderson stated that the reoccurring issue with boards and authorities is confusing as a new member of Council. He asked for some clarification on the boards and authorities and how the appointments are to be made. His understanding is the Home Rule Charter states the appointments must be a resident of Erie County. He is not sure where the violation is if someone is a resident of Erie County, unless specifically in a particular board, it should be in a specific district.

Dr. Foust stated that all information on boards and authorities are in the Administrative Code for clarification. This can be voted to override, but in general that is not done. He would suggest that before appointments are voted on, if a member is unsure of what the representation is, check the Administrative Code and vote your conscience.

Mr. Horton commented that the Solicitor offered opinion on boards and authorities when the ECPC issue came up. All of Council received a copy of that opinion, which stated that the Home Rule Charter would supercede any of other things.

The appointment of Ronald Susmarski then passed in a 6-1 vote, with Mr. Horton voting no.

## **ADJOURNMENT**

Mr. Leone moved to adjourn at 8:00 p.m.